

REMARKS

The Examiner is thanked for the Official Action of 2009.09.04. This request for reconsideration is intended to be fully responsive thereto.

35 USC § 112

The Examiner has rejected Claim 10 under 35 USC § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter. Specifically, the reference to "said conductive material." Claim 10 is amended to read "~~wherein said conductive material~~ current collecting substrate is formed on the surface.." and thus the rejection should now be moot.

35 USC § 102

Claims 1, 4 and 6 were rejected under 35 USC § 102(b) as being anticipated by Tajima et al (JP Patent Application 62235704 (patent number JP401081167A)).

Claim 1 of the present invention is amended with this submission to read "A current collecting structure comprising: a current collecting substrate; and a carbon material formed on said current collecting substrate without the use of binders, wherein said carbon material has a higher density near the current collecting substrate and a lower density in an upper region."

The claim as amended is not taught or disclosed by Tajima and thus the rejection should now be moot.

Claim 4 depends from now allowable claim 1 and should now be allowable as well.

Claim 6 depends from Claim 4 which depends from now allowable claim 1 and should also be allowable as well as based on an allowable base claim. No new matter has been added.

Claims 8 and 10 were also rejected based on Tajima. However, claim 8 is amended with this submission to "An electrode structure comprising: a current collecting substrate and an electrode active material formed on said current collecting substrate without the use of binders, wherein the electrode active material has a density less than or equal to 1.4 grams per cubic centimeter in an upper region." As amended Claim 8 is now not taught by Tajima and thus the rejection should now be moot. Claim 10 depends from now allowable claim 8 and thus that rejection should also now be moot. No new matter has been added.

35 USC § 103

The Examiner next rejected Claim 5 as being unpatentable over Tajima in view of Nakai et al (US Patent Application 2003/0122983A1). Applicant respectfully disagrees for at least the following reasons.

Applicant respectfully submits that the Examiner has not met his burden of proof to establish *prima facie* obviousness. First, the prior art references must teach or suggest all the claim limitations. In order to establish *prima facie* obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. MPEP 2143.03. The Examiner states that it would have been obvious to one of ordinary skill in the art to discover optimum values of a known result effective variable, without producing any new or unexpected results. However, Applicant submits that the references do not teach or suggest all the claim limitations of the present invention.

As noted above, Claim 1 is amended with this submission and as amended is not taught by Tajima. Claim 5 depends from Claim 4 which in turn depends from Claim 1. Thus, because all of the elements are not taught in Claim 1 it would not have been obvious to combine Tajima with Nakai as argued by the Examiner. The rejection should now be moot. No new matter has been added.

Conclusion

The art cited by the Examiner does not have or teach all of the claim limitations of the present invention. Additionally, because not all elements are taught there can be no suggestion or motivation to combine. Accordingly, it is submitted that Claims 1, 4-6, 8 and 10 define the invention over the prior art and notice to this effect is respectfully solicited. Applicant has either complied with all Examiner recommendations or has effectively argued against the Examiner's objections/rejections and believes that all currently pending claims are now in condition for allowance. No new matter has been added.

Should the examiner believe further discussion regarding the above claimed language

would expedite prosecution he is invited to contact the undersigned at the number listed below.

Respectfully submitted,

/Tracy M Heims 53010/

Tracy M Heims

Registration No. 53,010

Apex Juris, pllc
12733 Lake City Way Northeast
Seattle, Washington 98125
Tel: 206-664-0314 Fax: 206-664-0329
Email:usa@apexjuris.com